

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM No. M-1682 of 2017
Date of decision: 05.04.2017**

Ajay Chauhan

..... Petitioner.

Versus

State of Haryana

..... Respondent.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vikas Kumar, Advocate, for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

Mr. Vaibhav Parashar, Advocate, for the complainant.

LISA GILL, J.

The petitioner prays for grant of bail pending trial in FIR No. 128 dated 13.09.2016 registered under Sections 376, 452 and 506 of the Indian Penal Code (for short 'IPC') at Police Station Women, Sector 16, Faridabad, District Faridabad.

It is submitted that the allegations against the petitioner are patently false. Even as per the averments in the FIR, the victim/complainant was in a relationship with the petitioner for the last three years. The victim is admittedly major. Learned counsel for the petitioner further submits that the prosecutrix is deliberately not coming forward to depose in this matter. This petition was adjourned in the presence of the learned counsel for the complainant on 10.03.2017 for today as the prosecutrix was to depose before the learned trial Court on 03.04.2017. However, she did not come forward to testify. Learned counsel relies upon judgment of the Hon'ble Supreme Court in **Vijayan Vs. State of Kerala**, (2009) 3 SCC (Criminal) 585, to argue that the relationship between the petitioner and the victim was consensual. It is thus prayed that this petition be allowed.

Learned counsel for the State on instructions from ASI Sushila informs that charge in this case was framed on 21.11.2016. The

prosecutrix/complainant was summoned for 20.02.2017 as well as 03.04.2017. However, she has not come forward to depose.

Learned counsel for the complainant submits that the prosecutrix could not depose on 03.04.2017 as she was not feeling well. However, there is nothing on record to substantiate this argument and neither has learned counsel for the complainant come forth with any details.

Heard learned counsel for the parties.

It is not in dispute that the complainant is major. As per the allegations in the FIR, the petitioner is alleged to have compelled the victim to have forcible physical relations with him continuously for about three years prior to the lodging of the FIR, on the pretext of getting married to her. It is mentioned that the petitioner lastly came to the victim's house on 25.02.2016 i.e. over six months prior to the lodging of this FIR and threatened to have the victim's family killed. It is an admitted position that no complaint, whatsoever, was lodged by the victim prior to the lodging of the present FIR. The petitioner is admittedly not involved in any other case. The trial in this case is not likely to conclude in the near future. Eleven prosecution witnesses are yet to be examined. There is no allegation that the petitioner is likely to abscond or influence witnesses to dissuade them from deposing true facts in Court. Therefore, without expressing any opinion on the merits of the case, it is considered just and expedient to allow this petition.

Consequently, the petitioner shall be released on bail pending trial in case FIR No. 128 dated 13.09.2016 registered under Sections 376, 452 and 506 of the IPC at Police Station Women, Sector 16 Faridabad, District Faridabad subject to his furnishing requisite bail bonds and surety bonds to the satisfaction of the learned trial Court. The petitioner shall not,

directly or indirectly, try to contact the prosecutrix or the witnesses in any manner. In case of misuse of concession of bail by the petitioner, it shall be open to the prosecutrix to seek cancellation of his bail.

None of the observations in this order shall be construed to be a reflection on the merits of the case and shall have no bearing on the trial.

05.04.2017

PA

Whether speaking/reasoned

Whether reportable

:

:

Yes/No.

Yes/No.

(LISA GILL)

JUDGE